

**MINUTE ORDER - UNITED STATES DISTRICT COURT****NORTHERN DISTRICT OF TEXAS**

PLACE: Dallas

JUDGE: **Barbara M. G. Lynn**

DATE: May 22, 2013

REPORTER: Sue Engledow

MARSHAL:

DEPUTY: Saira Najam (clerk)

INTERPRETER:

CSO: John T. Williams

COURT TIME: 2 Hrs 20 Mins TTL

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**CIVIL ACTIONS**

| <u>TIME</u> | <u>CASE NUMBER &amp; STYLE</u>   | <u>TYPE OF HEARING &amp; RESULTS</u>  | <u>ATTYS PRESENT</u>   |
|-------------|--|---|--|
| 9:21 a.m.   | 3:12-CV-1230-M<br>American Institute of<br>Physics, et al.<br>vs.<br>Winstead PC, et al. | MOTION HEARING  | Pla - William Dunnegan<br>Pla - James Davis<br>Dft - George Kryder<br>Dft - Thomas Casagrande<br>Dft - Tami Parker |
| 11:05 a.m.  |  | Break   |  |
| 11:10 a.m.  |  | Hearing reconvenes  |  |
|             |  | <p>The Court heard oral arguments on the Defendants' Motion to Dismiss Plaintiffs' Amended Complaint [Docket Entry #56], the USPTO's Motion for Judgment on the Pleadings [Docket Entry #60], and Plaintiffs' Motion to Dismiss the USPTO's Counterclaim [Docket Entry #75]. After considering the parties' arguments and applicable law, the Court converted Defendants' Rule 12(b) Motion to Dismiss and the USPTO's Motion for Judgment into Motions for Summary Judgment under Federal Rule of Civil Procedure 56, and concluded that, based on the current factual record, Defendants are entitled to the fair use defense under 17 U.S.C. § 107 as a matter of law. A separate order explaining the Court's reasoning regarding the fair use defense is forthcoming. Plaintiffs' Motion to Dismiss and the USPTO's converted Motion for Judgment are DENIED as moot.</p> <p>Order to enter.</p> |  |
| 11:44 a.m.  |  | Hearing concluded.  |  |